

No. 14-2597

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Apr 14, 2015  
DEBORAH S. HUNT, Clerk

In re: DAMITA C. JOHNSON EL BEY,

Petitioner.

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O R D E R

Before: GIBBONS, SUTTON, and KETHLEDGE, Circuit Judges.

Petitioner Damita C. Johnson El Bey removed this eviction action from Michigan's 36th District Court. The federal district court remanded the case to state court for lack of subject matter jurisdiction, finding that it had neither federal question nor diversity jurisdiction over El Bey's lawsuit. El Bey now petitions for a writ of mandamus, prohibition, or other appropriate relief. She also moves for leave to proceed *in forma pauperis*. Bank of America N.A., the plaintiff in the proceeding below, responds.

"If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c). "[W]hen a remand has been ordered on these grounds, 28 U.S.C. § 1447(d) unmistakably commands that the order 'remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise . . . .'" *Gravitt v. Sw. Bell Tel. Co.*, 430 U.S. 723, 723 (1977) (per curiam). In the present case, the district court's remand order was "plainly within the bounds of § 1447(c)." *Id.* Therefore, mandamus cannot be used to review the remand order. *See id.* "Even an erroneous

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order is exempted from review by § 1447(d) as long as the order is made pursuant to § 1447(c).”

*In re Romulus Cmty. Sch.*, 729 F.2d 431, 435 (6th Cir. 1984).

Accordingly, the petition for a writ of mandamus, prohibition or other appropriate relief is **DENIED**. The motion to proceed *in forma pauperis* and all other pending motions are **DENIED as moot**.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

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Filed: April 14, 2015

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Re: Case No. 14-2597, *In re: In re: Damita C. Johnson El Bey*  
Originating Case No. : 4:14-cv-12505

Dear Counsel and Ms. Johnson El Bey:

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Patricia J. Elder  
Senior Case Manager

cc: Mr. David J. Weaver

Enclosure

No mandate to issue